

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

ADAPTIX, INC., ) Case No. 5:15-cv-00165-PSG  
Plaintiff, ) **ORDER RE: MOTIONS TO SEAL**  
v. ) **(Re: Docket Nos. 183, 192, 194)**  
ZTE CORPORATION, et al., )  
Defendants. )

ADAPTIX, INC., ) Case No. 5:15-cv-00166-PSG  
Plaintiff, ) **ORDER RE: MOTIONS TO SEAL**  
v. ) **(Re: Docket Nos. 186, 194, 196)**  
ZTE CORPORATION, et al., )  
Defendants. )

ADAPTIX, INC., ) Case No. 5:15-cv-00167-PSG  
Plaintiff, ) **ORDER RE: MOTIONS TO SEAL**  
v. ) **(Re: Docket Nos. 191, 199, 200)**  
ZTE CORPORATION, et al., )  
Defendants. )

ADAPTIX, INC.,

Plaintiff,

v.

ZTE CORPORATION, et al.,

Defendants.

Case No. 5:15-cv-00168-PSG

**ORDER RE: MOTIONS TO SEAL****(Re: Docket Nos. 154, 162, 163)**

Before the court are 12 administrative motions to seal several documents. “Historically, courts have recognized a ‘general right to inspect and copy public records and documents, including judicial records and documents.’”<sup>1</sup> Accordingly, when considering a sealing request, “a ‘strong presumption in favor of access’ is the starting point.”<sup>2</sup> Parties seeking to seal judicial records relating to dispositive motions bear the burden of overcoming the presumption with “compelling reasons” that outweigh the general history of access and the public policies favoring disclosure.<sup>3</sup>

However, “while protecting the public's interest in access to the courts, we must remain mindful of the parties' right to access those same courts upon terms which will not unduly harm their competitive interest.”<sup>4</sup> Records attached to nondispositive motions therefore are not subject to the strong presumption of access.<sup>5</sup> Because the documents attached to nondispositive motions “are often unrelated, or only tangentially related, to the underlying cause of action,” parties moving to seal must meet the lower “good cause” standard of Rule 26(c).<sup>6</sup> As with dispositive motions, the

<sup>1</sup> *Kamakana v. City & County of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006) (quoting *Nixon v. Warner Commc'ns, Inc.*, 435 U.S. 589, 597 & n. 7 (1978)).

<sup>2</sup> *Id.* (quoting *Foltz v. State Farm Mut. Auto. Ins. Co.*, 331 F.3d 1122, 1135 (9th Cir. 2003)).

<sup>3</sup> *Id.* at 1178-79.

<sup>4</sup> *Apple Inc. v. Samsung Electronics Co., Ltd.*, 727 F.3d 1214, 1228-29 (Fed. Cir. 2013).

<sup>5</sup> *See id.* at 1180.

<sup>6</sup> *Id.* at 1179 (internal quotations and citations omitted).

standard applicable to nondispositive motions requires a “particularized showing”<sup>7</sup> that “specific prejudice or harm will result” if the information is disclosed.<sup>8</sup> “Broad allegations of harm, unsubstantiated by specific examples of articulated reasoning” will not suffice.<sup>9</sup> A protective order sealing the documents during discovery may reflect the court’s previous determination that good cause exists to keep the documents sealed,<sup>10</sup> but a blanket protective order that allows the parties to designate confidential documents does not provide sufficient judicial scrutiny to determine whether each particular document should remain sealed.<sup>11</sup>

In addition to making particularized showings of good cause, parties moving to seal documents must comply with the procedures established by Civ. L.R. 79-5. Pursuant to Civ. L.R. 79-5(b), a sealing order is appropriate only upon a request that establishes the document is “sealable,” or “privileged or protectable as a trade secret or otherwise entitled to protection under the law.” “The request must be narrowly tailored to seek sealing only of sealable material, and must conform with Civil L.R. 79-5(d).”<sup>12</sup> “Within 4 days of the filing of the Administrative

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<sup>7</sup> *Id.*

<sup>8</sup> *Phillips ex rel. Estates of Byrd v. Gen. Motors Corp.*, 307 F.3d 1206, 1210-11 (9th Cir. 2002); *see* Fed. R. Civ. P. 26(c).

<sup>9</sup> *Beckman Indus., Inc. v. Int’l Ins. Co.*, 966 F.2d 470, 476 (9th Cir. 1992).

<sup>10</sup> *See Kamakana*, 447 F.3d at 1179-80.

<sup>11</sup> *See* Civ. L.R. 79-5(d)(1)(A) (“Reference to a stipulation or protective order that allows a party to designate certain documents as confidential is not sufficient to establish that a document, or portions thereof, are sealable.”).

<sup>12</sup> Civ. L.R. 79-5(b). In part, Civ. L.R. 79-5(d) requires the submitting party to attach a “proposed order that is narrowly tailored to seal only the sealable material” which “lists in table format each document or portion thereof that is sought to be sealed,” Civ. L.R. 79-5(d)(1)(b), and an “unredacted version of the document” that indicates “by highlighting or other clear method, the portions of the document that have been omitted from the redacted version.” Civ. L.R. 79-5(d)(1)(d).

Motion to File Under Seal, the Designating Party must file a declaration as required by subsection 79-5(d)(1)(A) establishing that all of the designated material is sealable.”<sup>13</sup>

With these standards in mind, the courts rules on the instant motions as follows:

<u>Motion to Seal</u>	<u>Document to be Sealed</u>	<u>Result</u>	<u>Reason/Explanation</u>
<b>Case No. 15-165</b>			
183	Supplemental Letter Brief	Designations highlighted in yellow, green and orange at Docket No. 193 SEALED.	Narrowly tailored to confidential business information.
183	Exhibit A to Larish Declaration	Designations highlighted in orange at Docket No. 193-2 SEALED.	Narrowly tailored to confidential business information.
183	Exhibit A to Williams Declaration	SEALED	Narrowly tailored to confidential business information.
183	Exhibit B to Williams Declaration	Designations highlighted in blue at Docket No. 194-4 SEALED.	Narrowly tailored to confidential business information.
183	Exhibit C to Williams Declaration	Designations highlighted in yellow at Docket No. 183-6 SEALED; designations highlighted in blue at Docket No. 194-6 SEALED.	Narrowly tailored to confidential business information.
183	Exhibit D to Williams Declaration	Designations highlighted in yellow at Docket No. 183-8 SEALED.	Narrowly tailored to confidential business information.
183	Exhibit E to Williams Declaration	Designations highlighted in yellow at Docket No. 183-10 SEALED.	Narrowly tailored to confidential business information.
183	Exhibit A to McGrory Declaration	Designations highlighted in yellow at Docket No. 183-13 SEALED EXCEPT names of Sprint employees UNSEALED.	Only sealed portions narrowly tailored to confidential business information.
183	Exhibit B to McGrory Declaration	Designations highlighted in yellow at Docket No. 183-14	Narrowly tailored to confidential business

<sup>13</sup> Civ. L.R. 79-5(e)(1).

		SEALED.	information.
183	Exhibit C to McGrory Declaration	Designations highlighted in yellow at Docket No. 183-15 SEALED.	Narrowly tailored to confidential business information.
192	Supplemental Letter Brief	See entry re Docket No. 183	
192	Exhibit A to Larish Declaration	See entry re Docket No. 183	
194	Supplemental Letter Brief	See entry re Docket No. 183	
194	Exhibit A to Williams Declaration	See entry re Docket No. 183	
194	Exhibit B to Williams Declaration	See entry re Docket No. 183	
194	Exhibit C to Williams Declaration	See entry re Docket No. 183	
194	Exhibit C to McGrory Declaration	See entry re Docket No. 183	
<b>Case No. 15-166</b>			
186	Supplemental Letter Brief and Exhibits	See entry re Case No.: 15-165, Docket No. 183	
194	Supplemental Letter Brief and Exhibits	See entry re Case No.: 15-165, Docket No. 192	
196	Supplemental Letter Brief and Exhibits	See entry re Case No.: 15-165, Docket No. 194	
<b>Case No. 15-167</b>			
191	Supplemental Letter Brief and Exhibits	See entry re Case No.: 15-165, Docket No. 183	
199	Supplemental Letter Brief and Exhibits	See entry re Case No.: 15-165, Docket No. 192	
200	Supplemental Letter Brief and Exhibits	See entry re Case No.: 15-165, Docket No. 194	
<b>Case No. 15-168</b>			
154	Supplemental Letter Brief and Exhibits	See entry re Case No.: 15-165, Docket No. 183	

162	Supplemental Letter Brief and Exhibits	See entry re Case No.: 15-165, Docket No. 192	
163	Supplemental Letter Brief and Exhibits	See entry re Case No.: 15-165, Docket No. 194	

**SO ORDERED.**

Dated: May 8, 2015

  
 PAUL S. GREWAL  
 United States Magistrate Judge

United States District Court  
 For the Northern District of California